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09/885,663	06/20/2001	Ralph W. Heim	033449-500-CI	4897

27805            7590            07/11/2003  
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EXAMINER
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GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

	Application 09/885,663	Applicant(s) <i>H. et al</i>
	Examiner <i>Gordon</i>	Art Unit 3612
		Confirmation No. <i>[Signature]</i>

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- Responsive to communication(s) filed on 5-22-07
- This action is FINAL.  This action is non-final.
- Since this application is in condition for allowance except for the formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- Claim(s) 1-25 + 32-59 is/are pending in this application.
- Of the above claim(s) 20-25, 32-48 + 53 is/are withdrawn from consideration.
- Claim(s) 59-59 is/are allowed.
- Claim(s) 1-8, 10-16, 49-52 + 55-57 is/are rejected.
- Claim(s) 9, 17-19 + 54 is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- The proposed drawing correction, filed on \_\_\_\_\_ is  approved or  disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
- The drawing(s) filed on \_\_\_\_\_ is/are  accepted or  objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).

All  Some\*  None of the:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received:

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  The translation of the foreign language provisional application has been received.

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- Notice of References Cited, PTO-892
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Interview Summary, PTO-413
- Notice of Informal Patent Application, PTO-152
- Other \_\_\_\_\_

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**DETAILED ACTION**

1. Claims 20-25, 32-48, and 53 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made without traverse in Paper Nos. 5 and 7.
2. It is requested that applicant cancel non-elected claims 20-25 and 32-48 in response to this action to facilitate the issue process if the application is ultimately allowed.
3. Claim 55 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation that the distance between the bottom support structure and the roof is less than about double the height of a vehicle is not supported in the original specification and comprises new matter - note for example the top of page 6 of the instant specification.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5.         Claims 1, 3, 4, 5, 8, 10, 11, and 49-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Paulyson.

Paulyson teaches a method of transporting vehicles including providing a module/container 14 and locating the module (i.e. the detachable ISO container) on a tractor and trailer assembly wherein the trailer/module assembly is located adjacent an external surface 70 so that transported vehicles may be driven from the surface into the module.

Re claim 1 as newly amended, in figure 1 and in the specification text, Paulyson clearly discloses standard ISO corner fittings at the *bottom* of the container module. Clearly such bottom mounted corners are required only on a separably mounted container - noting the corners are utilized for attachment. For example Note figure 1 of Larson et al. and/or figures 3-4 of Gearin et al etc.

Re claim 3, the module is stackable.

Re claims 4 and 49, the trailer is configured as claimed.

Re claim 5, the reference teaches driving to a desired location.

Re claims 8 and 51, the reference teaches driving the vehicles out of the module at the destination location.

Re claim 10, ramps 71 and 80 are utilized for loading.

Re claim 11, the ramps 71 and 80 are uncoupled when loading is complete and transported with the trailer.

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 -7, 1, 3-5, 8, 10-11, and 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paulyson in view of Gearin et al '067.

Paulyson teaches all of the claimed features as discussed regarding claim 5 above but fails to specifically teach uncoupling of the module and placement on a carrier for further transport and stacking of the modules. Additionally, if it is deemed Paulyson does not teach a detachable module, then the following applies.

Gearin et al teaches uncoupling an ISO container/module from a transport and stacking modules on a carrier for further transport - see figure 4 etc.

In order to utilize the Paulyson system for more efficient multiple container transport, it would have been obvious to one of ordinary skill in the art to uncouple the module from the transport and stack the module with other modules on a further carrier in view of the teachings of Gearin et al. Moreover, if regarding claims 1, 3-5, 8, 10-11, and 49-51, the module of Paulyson is not deemed detachably coupled to the trailer, then in order to create a more flexible transport system by allowing selective detaching of the container, it would have been obvious to one of ordinary skill in the art to fabricate the module of Paulyson as a separate ISO container which is detachable from the trailer body in view of the teachings of Gearin et al.

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8. Claims 12-16, 52, 56, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paulyson in view of Rumell.

Paulyson teaches all of the claimed features as discussed regarding claim 1 above but fails to specifically teach locating the pivoting/locating the module via pivoting structure as recited.

Rumell teaches use of a hydraulic fifth wheel assembly and a forwardly movable wheel assembly to facilitate loading/unloading of a cargo load to a tractor trailer - see figures 1 and 2 etc.

In order to allow more system flexibility and facilitate loading from lower level external surfaces, it would have been obvious to one of ordinary skill in the art to fabricate the tractor trailer of Paulyson to include a hydraulic fifth wheel assembly and movable wheelset to facilitate loading/unloading in view of the teachings of Rumell.

As indicated above, in figure 1 and in the specification text, Paulyson clearly discloses standard ISO corner fittings at the *bottom* of the container module. Clearly such bottom mounted corners are required only on a separably mounted container - noting the corners are utilized for attachment. For example Note figure 1 of Larson et al. and/or figures 3-4 of Gearin et al etc.

Re claim 52, the Paulyson system as modified by Rumell would be pivoted in first and second directions as recited during use.

9. Claims 12-16, 52, and 57, alternatively, are rejected under 35 U.S.C. 103(a) as being unpatentable over Paulyson in view of Rumell and Gearin et al.

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Paulyson teaches all of the claimed features as discussed regarding claim 1 above but fails to specifically teach locating the pivoting/locating the module via pivoting structure as recited.

Rumell teaches use of a hydraulic fifth wheel assembly and a forwardly movable wheel assembly to facilitate loading/unloading of a cargo load to a tractor trailer - see figures 1 and 2 etc.

In order to allow more system flexibility and facilitate loading from lower level external surfaces, it would have been obvious to one of ordinary skill in the art to fabricate the tractor trailer of Paulyson to include a hydraulic fifth wheel assembly and movable wheelset to facilitate loading/unloading in view of the teachings of Rumell.

Additionally, if it is deemed Paulyson does not teach a detachable module, then the following applies.

Gearin et al teaches uncoupling an ISO container/module from a transport and stacking modules on a carrier for further transport - see figure 4 etc.

In order to utilize the Paulyson system for more efficient multiple container transport, it would have been obvious to one of ordinary skill in the art to uncouple the module from the transport and stack the module with other modules on a further carrier in view of the teachings of Gearin et al. Moreover, if regarding claims 12-16, 52, and 57, the module of Paulyson is not deemed detachably coupled to the trailer, then in order to create a more flexible transport system by allowing selective detaching of the container, it would have been obvious to one of ordinary

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skill in the art to fabricate the module of Paulyson as a separate ISO container which is detachable from the trailer body in view of the teachings of Gearin et al.

Re claim 52, the Paulyson system as modified by Rumell would be pivoted in first and second directions as recited during use.

10. Claims 2 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paulyson in view of Phelps.

Paulyson teaches all of the claimed features as discussed regarding claim 1 above but fails to specifically teach spacing the container roof and floor such that only a single layer of vehicles can be received.

Phelps teaches a vehicle transport container with a floor and roof spaced to receive only a single vehicle layer.

If it were desired to transport fewer vehicles in a specific application, in order to save space, it would have been obvious to one of ordinary skill in the art to space the floor and roof of the container of Paulyson such that only a single vehicle layer could be received in view of the teachings of Phelps.

11. Claims 2 and 55 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Paulyson in view of Phelps and Gearin et al.

Paulyson teaches all of the claimed features as discussed regarding claim 1 above but fails to specifically teach spacing the container roof and floor such that only a single layer of vehicles can be received.

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Phelps teaches a vehicle transport container with a floor and roof spaced to receive only a single vehicle layer.

If it were desired to transport fewer vehicles in a specific application, in order to save space, it would have been obvious to one of ordinary skill in the art to space the floor and roof of the container of Paulyson such that only a single vehicle layer could be received in view of the teachings of Phelps.

Additionally, if it is deemed Paulyson does not teach a detachable module, then the following applies.

Gearin et al teaches uncoupling an ISO container/module from a transport and stacking modules on a carrier for further transport - see figure 4 etc.

In order to utilize the Paulyson system for more efficient multiple container transport, it would have been obvious to one of ordinary skill in the art to uncouple the module from the transport and stack the module with other modules on a further carrier in view of the teachings of Gearin et al. Moreover, if regarding claims 2 and 55 the module of Paulyson is not deemed detachably coupled to the trailer, then in order to create a more flexible transport system by allowing selective detaching of the container, it would have been obvious to one of ordinary skill in the art to fabricate the module of Paulyson as a separate ISO container which is detachable from the trailer body in view of the teachings of Gearin et al.

12.         Applicant's arguments filed 5/22/03 have been fully considered but they are not persuasive. Applicant indicates that Paulyson does not teach a detachable container. As

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noted above, in figure 1 and in the specification text, Paulyson clearly discloses standard ISO corner fittings at the *bottom* of the container module. Clearly such bottom mounted corners are required only on a separably mounted container - noting the corners are utilized for attachment. For example Note figure 1 of Larson et al. and/or figures 3-4 of Gearin et al etc. The bottom-most holes facing the ground in the Paulyson reference would not be included if attachment was not meant for the bottom of the container. If the wheels were permanently attached, the bottom ISO corner holes would not be accessible for use as they are commonly employed in the art. The container of Paulyson is deemed detachable. In an effort to expedite prosecution, detachable modules are known and teachings of such have been included above to modify Paulyson if such is not deemed to comprise a detachable container.

Additionally, applicant indicates Paulyson and Rummell are not properly combined. It remains the examiner's opinion that one of ordinary skill in the art when taking the combined teachings of Paulyson and Rummell together would think to combine the flexible stanchion assembly of Rummell with Paulyson to provide more system flexibility and facilitate loading/unloading.

13. Claims 9, 17-19, and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 58-59 are allowed.

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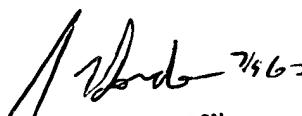
15.        Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16.        Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556.

stg

July 9, 2003

  
STEPHEN T. GORDON  
PRIMARY EXAMINER